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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,133	01/06/2004	Hans Jurgen Tiedtke	1001.1373102	4411
28075	7590 · 09/14/2005		EXAMINER	
CROMPTON, SEAGER & TUFTE, LLC			WILLIAMS, CATHERINE SERKE	
1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			ART UNIT	PAPER NUMBER
		3763		

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		$\searrow p$				
	Application No.	Applicant(s)	_			
	10/753,133	TIEDTKE ET AL.				
Office Action Summary	Examiner	Art Unit				
	Catherine S. Williams	3763				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period versions are reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on <u>08 A</u>	<u>oril 2004</u> .					
2a) ☐ This action is FINAL . 2b) ☑ This						
3) Since this application is in condition for allowar	nce except for formal matters, pro	secution as to the merits is				
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	53 O.G. 213.				
Disposition of Claims						
4)⊠ Claim(s) <u>11-19</u> is/are pending in the application	n.					
4a) Of the above claim(s) is/are withdraw	wn from consideration.					
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>11,12 and 14-19</u> is/are rejected.						
7) Claim(s) <u>13</u> is/are objected to.						
8) Claim(s) are subject to restriction and/o	r election requirement.					
Application Papers						
9)⊠ The specification is objected to by the Examine	۲.					
10) ☐ The drawing(s) filed on is/are: a) ☐ acc	epted or b) \square objected to by the l	Examiner.				
Applicant may not request that any objection to the	drawing(s) be held in abeyance. See	e 37 CFR 1.85(a).				
Replacement drawing sheet(s) including the correct						
11) ☐ The oath or declaration is objected to by the Ex	caminer. Note the attached Office	Action or form PTO-152.				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign	priority under 35 U.S.C. § 119(a))-(d) or (f).				
a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority document	s have been received					
2. Certified copies of the priority document		ion No				
3. Copies of the certified copies of the prior	, ,					
application from the International Bureau	•					
* See the attached detailed Office action for a list		ed.				
Attachment(s)						
1) Notice of References Cited (PTO-892)	4) Interview Summary Paper No(s)/Mail D					
2)		Patent Application (PTO-152)				
Paper No(s)/Mail Date <u>4/8/04</u> .	6) Other:					

DETAILED ACTION

Priority

The amendment to the specification filed 2/17/04 must include the current status of the application, i.e. -now U.S. Patent number 6,689,089.--

Specification

The disclosure is objected to because of the following informalities:

Pages 1 and 3 refer to claims 1 or 6 and 1, 8 and 9, respectively. These claims are no longer pending in the application.

Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification does not use the terminology atherectomy.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-12 and 14-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Taylor (USPN 6,001,112). Taylor discloses a atherectomy device that includes a catheter with a lumen (12), a distal element (22), a shaft (24), and a measurement device (131). See 14:26-49 and 15:8-22. The output of the measurement device can be any variety of tactile, auditory or visual. See 14:62+.

Allowable Subject Matter

Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine S. Williams whose telephone number is 571-272-4970. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/753,133 Page 4

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Catherine S. Williams

September 12, 2005